

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF  
RALSTON CREEK ESTATES

THE STATE OF TEXAS       §  
  §  
COUNTY OF WASHINGTON   §

1071

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF RALSTON CREEK ESTATES (the "Declaration"), is made effective as of February 25, 2014, by BCS Development Company (hereinafter sometimes referred to as "Declarant").

WHEREAS, Declarant is the owner and developer of certain real property now or hereafter commonly known and described as a 7.864 acres of land situated in the James Walker Survey, A-106, Brenham, Washington County, Texas, and which land subject to this Declaration is more particularly described by metes and bounds in Exhibit "A", attached hereto and made a part hereof, and as a 12.775 acres of land situated in the James Walker Survey, A-106, Brenham, Washington County, Texas, and which land subject to this Declaration is more particularly described by metes and bounds in Exhibit "B", attached hereto and made a part hereof. Declarant desires to establish and implement plans for residential living, recreation, aesthetic and quality-of-life considerations.

The purposes of this Declaration are to: protect the Declarant and the Owners against inappropriate development and use of Lots within the Subdivision; provide use, maintenance and repair of compatibility of design of improvements within the Subdivision; secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; provide for landscaping and the maintenance thereof; provide for a property owner's association to maintain common areas and to assist in enforcing these Declaration; and, in general, to encourage construction of attractive, quality, permanent improvements that will promote the general welfare of the Declarant and the Owners. Declarant desires to impose these restrictions on the Property now and yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the quality and distinction of the Ralston Creek Estates project. The restrictive covenants herein will preserve the best interests of the Declarant and the Owners and Residents of Ralston Creek Estates, after completion of all development and construction therein.

WHEREAS the Declarant desires to convey the Property subject to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth;

WHEREAS the Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, liens, and charges, which are for the purpose of preserving the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and (ii) that each contract or deed that may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract, or deed.

**ARTICLE 1  
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the following meanings hereinafter specified:

- 1.01 Additional Land. Declarant, or Declarant's assigns, may create additional phases or sections of Ralston Creek Estates, and adopt the same, similar or different restrictions, rules, and regulations for such phases or sections, and make the additional phases or sections subject to the Association.
- 1.02 Architectural Committee. "Architectural Committee" shall mean the committee created by the Board to review and approve plans for the construction of improvements on the Property. If the Board does not appoint an Architectural Committee, the Board shall serve as the Architectural Committee.
- 1.03 Articles. "Articles" shall mean Articles of Incorporation of Ralston Creek Estates Homeowner's Association, Inc., as that instrument may be amended from time to time, which instrument is filed in the office of the Secretary of State of the State of Texas, and is attached hereto as Exhibit "C", for reference.
- 1.04 Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of the Declaration.
- 1.05 Association. "Association" shall mean Ralston Creek Estates Homeowner's Association, Inc., a Texas nonprofit corporation, which shall have authority and responsibility for all of the communities and subdivisions of Ralston Creek Estates, as hereafter defined.

- 1.06 Board. "Board" shall mean the Board of Directors of the Association. Board members may, but need not, be Members of the Association.
- 1.07 Bylaws. "Bylaws shall mean the Bylaws of the Association as adopted by the Board, and from time to time amended, and attached hereto as Exhibit "D", and made a part hereof.
- 1.08 Common Areas. "Common Areas" shall mean any land conveyed, leased, dedicated or assigned by Declarant, or a third party with the Association's consent, to the Association for maintenance and operation, including, but not limited to, easements, roads, entryways, roadways, rights-of-ways, parkways, median strips, sidewalks, parks, recreational areas, pavilions, walking trails, swimming pools, water features, trails, paths, ponds, creeks, or lakes within the Property.
- 1.09 Declarant. "Declarant" shall mean BCS Development Company, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of BCS Development Company as Declarant, must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignments of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.
- 1.10 Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.
- 1.11 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, pole signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines, meters, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.
- 1.12 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a recorded plat of the Property, together with all Improvements located thereon.
- 1.13 Member. "Member" or "Members" shall mean any person(s), entity, or entities holding membership rights to the Association.
- 1.14 Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.
- 1.15 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

- 1.16 Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any Lot on the Property, but shall not include a Mortgagee.
- 1.17 Person. "Person" or "Persons" shall mean an individual or individuals, entity or entities having the legal right to hold title to real property.
- 1.18 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.
- 1.19 Property. "Property" shall mean the real property in Washington County, Texas which is described in Exhibit "A", and additional lands.

**ARTICLE 2  
DEVELOPMENT OF THE PROPERTY**

- 2.01 Addition of Land. Declarant may, but shall not be required to, at any time and from time to time, add any other lands to the Property, and upon such addition, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as they are with respect to the lands originally covered by the Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Official Records of Washington County, Texas, a Notice of Addition of Land containing the following provisions:
- (A) A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of the County wherein this Declaration is recorded;
  - (B) A statement that the provisions of this Declaration shall apply to the added land; and
  - (C) A legal description of the added land.
- 2.02 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property



hereunder, Declarant shall be required only to record in the Official Records of Washington County, Texas, a Notice of Withdrawal of Land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of the County wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land.

**ARTICLE 3  
GENERAL RESTRICTIONS**

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.01 Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior approval of the Architectural Committee.

3.02 Antennas.

No external antennas of any kind shall be permitted on any lot within the Subdivision without prior written approval of the Committee as to antenna size, height, placement and visibility. No satellite antenna nor any antenna dish may be parked, erected or installed either permanently or temporarily, on any lot, except in backyard areas where it is substantially concealed from public view.

3.03 Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

3.04 Signs. No sign of any kind may be erected or maintained on any Lot without the consent in writing of the Architectural Committee except the following permitted signs:

- (A) signs advertising the Lot for sale;
- (B) not more than two (2) political signs, and then only for the period from one month prior to and three days after an official election day;

- (C) school spirit signs; or
- (D) security signs.

No permitted sign shall exceed five (5) square feet without the prior written approval of the Architectural Committee. Declarant or the Architectural Committee shall have the right to enter and remove any unapproved sign, advertisement, billboard or structure which is placed on any Lot without the Declarant or the Architectural Committee's consent, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.

- 3.05 Clotheslines, Garbage Cans, Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon a Lot and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or its occupants. No clotheslines shall be erected or installed on the exterior portion of any Lot and no clothing, linens or other material shall be aired or dried on the exterior portion of any Lot, unless screened from view from any adjacent lot or street. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and properly located adjacent to the Lot. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Board and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Association, the Association may remove the rubbish or debris, and charge a special assessment to the Owner of the Lot.
- 3.06 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.
- 3.07 Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the approval of the Architectural Committee.
- 3.08 Nuisance and Lateral Support. No noxious or offensive activity or work shall be conducted upon any Lot so as to impair the structural soundness or integrity of any improvement on any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

- 3.09 Repair of Improvements. All Improvements upon the Property, including any Lot, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner or Owners thereof.
- 3.10 Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any Improvement, which in any way alters the exterior appearance of said Improvement, shall be performed only with the prior written approval of the Architectural Committee.
- 3.11 Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Architectural Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin.
- 3.12 Driveway. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveways within the Property.
- 3.13 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee.
- 3.14 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted on a Lot except in contained barbeque units while attended and in use for cooking purposes, or within safe and well-designed (i) interior fireplaces, (ii) exterior fireplaces, or (iii) outdoor chimneys (or chimineas).
- 3.15 Mining and Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No well, pump, shaft, casing or other facilities for the removal of subsurface water shall be placed or maintained on any Lot, and no boring, drilling, removal or exploration for subsurface water or the injection of water or waste water shall be conducted on any Lot.
- 3.16 Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Washington County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures

or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by any public utility, in the performance of its legitimate functions.

- 3.17 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon a Lot without the prior written approval of the Architectural Committee; provided, however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen on a Lot during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.
- 3.18 Vehicles. No vehicle or trailer, which is inoperative, wrecked, dismantled, discarded or which does not have (i) a lawful license affixed thereto, (ii) an unexpired license plate or plates, and (iii) a valid motor vehicle safety inspection certificate, shall be permitted upon any lot. If visible from the street for a period longer than 72 hours such violative vehicles shall be subject to being towed away by the Association at the owner's expense.

No truck or van with more than two axles, service vehicles (including but not limited to, those containing multiple tool boxes, ladder racks, welding equipment, construction equipment or other similar equipment or accessories), boat, trailer, motor home, mobile home, house trailer, or recreational vehicle, may be kept on the street in front of any lot, or upon any lot, unless it is kept inside the garage or yard areas, behind fences or walls, and concealed from public view. No vehicle of any kind may be parked on lawn areas for any reason. These restrictions shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and used for the construction, repair and maintenance of the Subdivision or of any properties in the Subdivision. Passenger vehicles may be parked on the street in front of lots for periods of time not to exceed twelve (12) hours in any twenty-four (24) hour period. Any vehicle parked for a longer time may be towed away by the Association at the lot owner's expense. This restriction is not to be construed to prohibit periodic overnight guests from parking on the street, but is to specifically prohibit residents from using the street as the usual overnight parking for vehicles. No major repair work, dismantling, or disassembling of motor vehicles or other machinery or equipment shall be permitted in or on any drive, street, garage, carport or any part of any lot.

No motorcycles, motorbikes, dirt-bikes, motor-scooter, go-carts, or three and four wheel "off-road" vehicles, nor any similar vehicles, whether licensed or unlicensed may be operated by unlicensed operators on any lot or on any street in the Subdivision. Furthermore, no motor vehicle that is operated, either legally or illegally, on the lots or on the streets of the Subdivision shall be permitted to make or emit any noxious or offensive noises, smells, or fumes, or to be operated in such

a manner that may be or become a danger, nuisance or annoyance to the neighborhood.

- 3.19 **Fences.** No fence, wall, or any other structure shall be erected, added or placed on any lot nearer to any front lot line than the nearest front corner of the residential dwelling, unless approved by the Committee. All fences, walls and mailboxes shall be of a nature and quality so as to be harmonious with, and enhance, and not detract from the general appearance of the Subdivision and must be approved in writing by the Committee prior to construction. Each individual lot owner is responsible for keeping, repairing, replacing and maintaining any existing fence or wall that is on the owner's lot or adjacent right-of-way. All fences will be made of cedar, spruce, fir, pine, redwood or ornamental metal unless otherwise approved by the Committee. Cyclone fences are allowed only if fully screened from public view (i.e. "dog runs"); however, any and all such cyclone fences and the use thereof must first be approved in writing by the Committee. Fences may be reasonably stained to enhance natural appearance but are not to be painted unless approved by the Committee. The "good side" of the fence (that is, the side that shows fence slats or pickets only) shall always face the public street closest to such fence or common area, as appropriate. Final approval of fencing and its facing shall be at full discretion of the Committee.
- 3.20 **Livestock.** No animals, livestock, poultry or insects of any kind shall be raised, bred or kept on any lot, except that dogs (excluding Pit Bulls, Chows, Rottweiler, Dobermans or any dog with a wolf mix, which are strictly prohibited), cats, fowl, or other household pets may be kept if they are not used, maintained or bred for any commercial purposes, and provided such pets do not become a nuisance to the neighborhood. All dogs with a previous record of aggressive behavior or instances of biting shall be fenced.
- 3.21 **Maintenance of Lawns and Plantings.** Those portions of each improved lot that are visible from the street, primarily the front yard, shall be maintained with domestic grass and/or suitable ground cover, integrated with any natural trees and bushes that may be incorporated into the landscaping. In any case, whether a yard is primarily covered with grass and/or ground cover or largely covered with natural growth, the yard shall be kept in a manner consistent with a well-maintained attractive neighborhood.

If the owner of any lot fails to keep the grass and vegetation cut as often as may be necessary to maintain the lot in a neat and attractive condition, the Association may have the grass or vegetation cut, and the lot owner shall be obligated to pay, or otherwise reimburse the Association, for the cost of such work. By acceptance of its grant deed, each lot owner is the Subdivision grants to the Association authority to enter upon such owner's property without threat of trespass or other liability



against the Association excepting willful misconduct by Association, its officers, employees and agents.

- 3.22 Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines from streets on the Property shall be placed or permitted to remain on any corner Lot within the area defined by a line drawn between two points located twenty (20) feet from the point of intersection of the street right-of-way property lines immediately adjacent to the Lot, as reasonably located by the Architectural Committee. Measurements shall be by chord, and not arc. No tree shall be permitted to remain within such areas, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.
- 3.23 Garage Conversions. No garage or any portion thereof, may be constructed into enclosed living space unless the Architectural Committee first approves the Plans and Specifications for conversion and construction in writing.
- 3.24 Swimming Pools, Recreational Amenities, Other Common Areas. Any swimming pools, recreational amenities or other improvements in common areas constructed on the Property by Declarant or the Association shall be governed by rules and regulations for use or prohibitions against use established by the Board from time to time.
- 3.25 Doors and Windows. No "burglar bars," steel or wrought iron bars, or similar fixtures, whether designated to decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any dwelling. No signs, numerals or other writing shall be written on or placed in the doors, windows or exterior walls of any dwelling, either temporarily or permanently, except that the Board may, in its discretion, permit house numbers to be written temporarily on a single window of a dwelling while occupants are moving in, provided such numbers are removed within seventy-two (72) hours after the occupants have taken occupancy. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time, not to exceed fourteen (14) days, after taking occupancy of the dwelling, as determined in the sole discretion of the Board. Foil, cardboard, plywood, newspaper, sheets or bed linens shall not be used as window coverings at any time, except for bona fide emergencies of less than three (3) weeks.
- 3.26 Registered Sex Offenders. Without the prior written approval of the Board, no Lot shall be occupied in whole or in part by any person who is a registered sex offender on the Texas Public Sex Offender Registry, or any similar registry in another state.
- 3.27 Seasonal Decorations. No Owner or Occupant of any Lot shall keep or maintain any decorations related to seasonal events (Christmas, Independence Day, Thanksgiving, Halloween, for example, without limitation) for more than ten (10)

days after (or for more than thirty (30) days prior to) the date of the actual seasonal event.

- 3.28 Occupancy. A residence may only be occupied by:
- (A) A single family unit which may consist of the owner of the residence, his or her spouse, his or her children, and his or her parents; or
  - (B) No more than two unrelated individuals and lineal descendants thereof; or
  - (C) The owner, the spouse of the owner, the parents of the owner, or the lineal descendants of the owner and their authorized guests, but which is not used by such persons as a rooming or boarding house for unrelated persons; or
  - (D) Not more than four unrelated persons and lineal descendants thereof under a lease agreement with the owner of the residence; or
  - (E) A single family unit consisting of no more persons than are otherwise authorized herein under a lease agreement with the owner of the residence.
- 3.29 Compliance. Each Owner shall comply strictly with the provisions of the Declarations as the same may be amended from time to time. Failure to comply shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by any aggravated Owner. Declarant, for itself, its successor or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all subdivided Lots controlled by these covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.
- 3.30 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in the Declarations are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance upon one or more such restrictive covenants, terms or provisions shall assume all the risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold the Declarant harmless therefrom.

#### ARTICLE 4 RESIDENTIAL RESTRICTIONS

- 4.01 Residential Use. All Lots shall be improved and used solely for residential purposes inclusive of a garage, fencing, and other such improvements as are necessary or customarily incident to residential use. No Owner shall occupy or use his Lot or any

Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose, including religious, other than the private residence. All Lots within the Property shall be improved as single-family residential structures, with no more than one (1) residential dwelling unit per Lot. Anything herein to the contrary notwithstanding, any Lot may be used or improved for a greenbelt, open space and/or drain field purposes. No Improvement may be constructed upon any Lot that would unreasonably obstruct the view from any other portions of the Property, and the positioning of all Improvements upon Lots within the Property is hereby expressly made subject to Architectural Committee review. The Architectural Committee may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. The Architectural Committee may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the Architectural Committee nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

- 4.02 **Garages.** No Lot shall have Improvements erected which do not provide for at least a one-vehicle garage. Except with consent of the Architectural Committee, garages may not be converted or used for occupancy by Owners or other occupants, or any other purpose other than storage of vehicles, equipment or other incidental related property.
- 4.03 **Outbuildings.** Every building, inclusive of such structures as a storage building or greenhouse shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition or be completely screened from public view. All such buildings shall be subject to approval by the Architectural Committee. In no instance shall an outbuilding exceed one (1) story in height or have total floor area in excess of twenty percent (20%) of the floor area of the main dwelling.
- 4.04 **Building Height.** No Improvement greater than thirty-two (32) feet in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridgeline of the roof of the proposed Improvement.
- 4.05 **Building Materials; Dwelling Size.** All structures shall be of recognized standard construction quality. Unless an exception is granted by the Architectural Committee, all single family dwellings on Lots shall contain no less than 1,000 square feet of enclosed living space, exclusive of all porches (open or covered), decks and garages.
- 4.06 **Construction in Place.** The use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Committee.

- 4.07 Setback Requirements. No building shall be located or erected nearer to any Lot line than the building line shown on the recorded plat of the Property subdivision section which includes such Lot.

**ARTICLE 5**

**RALSTON CREEK ESTATES HOMEOWNER'S ASSOCIATION**

- 5.01 Organization. The Declarant has caused, or will cause the formation and incorporation of the Association as a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.
- 5.02 Membership. Any Person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest, which qualifies the Owner thereof for membership, and membership may not be severed from, or in anyway transferred, pledged, mortgaged, or alienated except together with title to the said property interest.
- 5.03 Voting Rights. The right to cast votes and the number of votes which may be cast, for election of directors to the Board and on all other matters to be voted on by the Members shall be calculated as follows:
- (A) The Owner, whether one or more (including Declarant), of each Lot within the Property shall have one vote for each Lot so owned. In addition, Declarant shall have one vote for each lot reflected on the preliminary plats of the portions of the Property which have not been platted.
  - (B) In addition to the votes to which Declarant is entitled by reason of Subparagraph (A) of this Section, for every such vote, Declarant shall have three (3) additional votes until such time as the votes described in Subparagraph (A) of this section, owned by Owners other than Declarant, total in the aggregate (90%) of the total number of votes outstanding under Subparagraph (A) (the "Transition Date"). Thereafter Declarant shall only have votes if any, to which it is entitled under Subparagraph (A) of this section.
- 5.04 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to any limitations upon the exercise of its power as are expressly set forth in this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association, and the Board acting on behalf of the Association, shall have the following powers at all times:

- (A) Policies, Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Policies, Rules and Bylaws, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions.
- (B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out Association functions.
- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy Assessments as provided in Article 7 below.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency, or in a non-emergency, after ten (10) days' written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Declarations, and the expense incurred by the Association in connection with the entry upon any Lot and the work conducted thereon (i) shall be a personal obligation of the Owner of the Lot entered upon, (ii) shall be a lien upon the Lot entered on and Improvements thereon, and (iii) shall be enforced in the same manner and to the same extent as provided in Article 7 hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the names of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Declarations. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Ralston Creek Estates Residential Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.
- (F) Fines. To levy and collect fines against Owners for any violation of the Declaration which is not cured by the Owner in the judgment of Board within 30 days after written notice of such violation as provided in section 9.04. Fines may be assessed repeatedly for continuous violations. Fines shall be uniform according to a fine schedule to be established from time to time by the Board.
- (G) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Association.



5.06 Common Areas.

- (A) Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:
- (1) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with any Improvements of any kind or purpose located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant; and to maintain in good repair and condition all lands, Improvements, and other Association property owned by or leased to the Association, whether by Declarant or by other Persons.
  - (2) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon individual Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
  - (3) To execute mortgages, both construction and permanent, for construction of Improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages, including without limitation, a swimming pool or pools in Common Areas. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien, as deemed appropriate by borrower, whether Declarant or the Association, on the Improvements to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of Members, or otherwise, or any combination thereof, as may be deemed appropriate by Declarant or the Association, as the case may be, but subject to the limitations imposed by this Declaration.
- (B) In addition to, and not in limitation of, the power and authority of the Association as set forth in Section 5.04 of this Declaration, the Association, acting through the Board, shall have the power and authority:

- (1) To grant and convey portions of Association property, including fee title, leasehold estates, easements, right-of-way, and/or mortgages, to any person or entity for the purpose of constructing, erecting, operating or maintaining improvements;
- (2) To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for the property of the Association; or within city-owned parks, parkways, entrance ways, or street rights of way which the Association desires to maintain or pay for; or to power wash or stain fences that face Common Areas or that face the outside of the subdivision; in the best interest of the Association and the aesthetic appearance of the subdivision as a whole.
- (3) To enter into contracts with Declarant and other persons, with such terms and provisions as the Board shall determine, to operate and maintain any of the Common Areas or to provide any service or perform any function on behalf of Declarant or the Association in connection with the purposes of the Association.
- (4) To acquire and own and to dispose of all manner of real and personal property, whether by purchase, grant, lease, gift or otherwise.

5.07 Indemnification. The Association shall indemnify any director, officer, or member of a committee duly appointed pursuant to the Articles or Bylaws who by reason of the fact that such person is or was a director, officer or member of such a committee of the Association was, is, or is threatened to be made, a named defendant or respondent in (i) any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, (ii) any appeal in such an action, suit, or proceeding, and (iii) any inquiry or investigation that could lead to such an action, suit, or proceeding (hereinafter a "Proceeding"), and against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with any such Proceeding to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time. Such authorization of indemnification shall be deemed to be mandatory and deemed to constitute authorization of indemnification and advancement of expenses to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time.

## ARTICLE 6 ARCHITECTURAL COMMITTEE

6.01 Membership of Architectural Committee. The Architectural Committee shall consist of not more than four (4) voting members ("Voting Members") and such additional

nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. The following persons are hereby designated as the initial Voting Members of the Architectural Committee: Randy French, Jeffrey French, Edna Alford, and Doug French.

- 6.02 Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.
- 6.03 Declarant's Rights of Appointment. Until the Transition Date as defined in Section 5.03(B), Declarant, its successors or assigns shall have the right to appoint and remove all Voting Members of the Architectural Committee, which persons need not be drawn from Association Members. Notwithstanding the preceding sentence, Declarant may delegate its right of appointment, or any portion thereof, to the Board by written instrument before such date. Whenever the Transition Date occurs, thereafter, the Board shall have the right to appoint all Voting Members. At such time as the Board gains the right to appoint and remove Voting Members of the Architectural Committee, or any portion of this right, a majority of the Voting Members so appointed shall be drawn from Members of the Association. Advisory Members shall, when reasonably possible, be drawn from Members of the Association.
- 6.04 Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it deems necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, and other similar codes.
- 6.05 Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts that, in its sole and absolute discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. Upon receipt of all necessary information, the Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other related duties assigned or authorized by this Declaration, including at its option inspection of construction in progress to assure its conformance with previously approved Plans and Specifications. The Architectural Committee shall have the express authority to perform fact-finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite,

uncertain or capable of more than one construction. The Architectural Committee may, in its review of Plans and Specifications and such other information as it deems proper, consider whether any proposed Improvement upon a Lot would unreasonably obstruct the view from other portions of the Property. The Architectural Committee may, but shall not be required to, disapprove any Improvement upon any Lot that would unreasonably obstruct the view from any other portion of the Property. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with residential development within the Property and the surrounding area. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans and Specifications be deemed an endorsement, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes not of its authorship.

- 6.06 Actions of the Architectural Committee. The Architectural Committee may, by resolution unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of all the members of the Architectural Committee taken without a meeting shall constitute an act of the Architectural Committee.
- 6.07 No Waiver of Future Approvals. The approval or consent of the Architectural Committee of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Committee, shall *not* be deemed to constitute a waiver of any right to withhold approval or consent as to any other Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.
- 6.08 Work in Progress. The Architectural Committee may at its option inspect all work in progress to insure compliance with approved Plans and Specifications.
- 6.09 No Liability for Architectural Committee Members. Neither the Architectural Committee nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its members, as the case may be. Neither the Architectural Committee nor any member thereof shall be liable to any Owner due

to the construction of any Improvements within the Property, or the creation thereby of any obstruction of the view from such Owner's Lot or Lots.

- 6.10 Address. Plans and Specifications shall be submitted to the Architectural Committee in care of Edna Alford at 4090 State Hwy 6 S., College Station, Texas 77845, or in care of such other person at such other address as may be designated by Declarant or the Board, as the case may be, from time to time.
- 6.11 Failure to Act. In the event the Architectural Committee or its designated representative fails to approve or disapprove any Plans and Specifications within thirty (30) days after the same have been submitted to it, complete with all other information requested by the Architectural Committee in connection with such submission, approval shall be assumed.
- 6.12 Variances. Notwithstanding any other provision of this Declaration, in order to prevent undue hardship upon the Owner or Owners of any individual Lot or Lots upon the Property, variance from any restrictions set out in this Declaration may be granted by a unanimous decision of the Architectural Committee in a written instrument to be duly acknowledged, if and when such a variance shall ever be granted.
- 6.13 Governmental Agency Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing such approvals, certificates and/or permits as may be required by law in connection with the construction of any Improvements on any Lot.
- 6.14 Relationship with Association. The Architectural Committee has been created pursuant to this Declaration to perform certain functions specified herein relating to the review and approval of Plans and Specifications for Improvements built on the Property. The Architectural Committee does not exercise the authority of the Board, and shall not do so unless and until (i) the Board shall have duly appointed a majority of Board members to the Architectural Committee, and (ii) the Board shall by unanimous resolution, duly recorded in the records of the Association, make the Architectural Committee a committee of the Board in accordance with the Texas Non-Profit Corporation Act.

## ARTICLE 7 FUNDS AND ASSESSMENTS

- 7.01 Assessments.
- (A) The Association may from time to time levy Assessments against each Lot whether or not improved. Except for special assessments, the level of Assessments shall be equal and uniform between all Lots. It is provided, however, that no Assessments hereunder shall be levied against Declarant.



- (B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.
- (C) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the owner of the Lot against which the Assessment falls due, and shall become a lien against each such Lot and all Improvements hereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.02 Regular Annual Assessments. The initial annual Assessment per Lot shall be determined by the initial board of directors based on the anticipated budgeted expenses. Thereafter, prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration. Assessments sufficient to pay such estimated expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association in the time and manner directed by the Board at its sole discretion, either (a) annually, at the beginning of the fiscal year, or (b) during the fiscal year in equal monthly installments on or before the first day of each month, or (c) in other convenient installments.

7.03 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under this Declaration. The amount and due date of any special Assessments shall be at the reasonable discretion of the Board. The Board may also make special assessments against individual Owners for costs related to repair or maintenance of damages or loss to Common Areas or property for which the Association has a repair obligation caused by the negligence or intentional acts of any Owner or occupants of a Lot.

7.04 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the owner of the Lot covered by such assessments. Except as otherwise provided in Section 7.01(A) hereof, no Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the owner of the Lot shall be obligated to pay interest at the highest rate allowed by

applicable usury laws then in effect on the amount of the Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1-1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

7.05 Assessment and Fine Lien and Foreclosure. All sums assessed in the manner provided in this Article but not paid by the Owner, and all fines assessed by the Board in the manner provided in Section 5.04, shall, together with interest as provided in Section 7.04 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment or fine, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment and Fine lien to any other lien. Such power shall be entirely discretionary with the Board and an officer of the Association, duly authorized by the Board, shall effectuate such subordination. To evidence an Assessment and Fine lien, the Association may prepare a written notice of Assessment and Fine lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by an officer of the Association, duly authorized by the Board, and shall be recorded in the office of the County Clerk of Washington County, Texas. Such lien for payment of Assessments or Fines shall attach with the priority above set forth from the date such payment becomes delinquent, and may be enforced subsequent to the recording of a notice of Assessment and Fine lien as provided above, by the foreclosure of the defaulting Owner's Lot by the Association judicially or by expedited foreclosure proceedings pursuant to the provisions of Section 209.0092 of the Texas Property Code and Texas Rules of Civil Procedure Rules 735 and 736, and successor statutes, and each Owner expressly grants the Association a power of sale in connection therewith, or the Association may institute suit against the Owner personally obligated to pay the Assessment or Fine and/or for foreclosure of the aforesaid lien judicially. Any Owner may waive expedited foreclosure proceedings. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee the status of any Assessments or Fines relating to the Mortgagee's mortgage and remaining unpaid for longer than thirty (30) days after due.

**ARTICLE 8  
EASEMENTS**

- 8.01 Reserved Easements. All dedications, limitations, restrictions, and reservations shown on any plat covering all or any portion of the Property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property.
- 8.02 Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such easement area.
- 8.03 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Committee thereon require. Each Owner further covenants not to disturb any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as may be approved in writing by the Architectural Committee.
- 8.04 Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Areas for the purpose of enforcing the Declaration, and for the construction of a common cable television system, a common sprinkler system, maintenance of landscaping, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed as trespass.
- 8.05 Specific Easements. In addition to the easements set forth above, two specific easements are reserved by the Declarant, on its own behalf, and on behalf of the Association, as follows:
- (A) A sidewalk easement for pedestrians or private vehicular traffic by the Declarant and Association on, over and across the Variable Width Access Easement located on Lot 20, Block 3, Ralston Creek Estates, Phase I, as

more particularly described in Exhibit "E", attached hereto and made a part hereof. No improvements, fences, trees or shrubbery shall be built or placed within this Specific Easement by the Owner of Lot 20, Block 3, Ralston Creek Estates, Phase I.

- (B) A landscape and subdivision sign easement for landscaped areas and maintenance and Ralston Creek Estates subdivision signage, to be built or placed within the areas designated on Exhibit "F", attached hereto and made a part hereof, at the south corner of Lot 17, Block 1, Ralston Creek Estates, Phase I, together with an access easement across Lot 46, Block 1, Ralston Creek Estates, Phase I, for the sole purpose of maintenance and construction of the landscaped areas and the sign.

**ARTICLE 9  
MISCELLANEOUS**

- 9.01 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until twenty (20) years from date hereof ("the Termination Date"), unless amended as herein provided. On the Termination Date, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each.
- 9.02 Dissolution. Upon termination of this Declaration, the Association shall be dissolved. In the event of any such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to any appropriate public agency to be used for purposes similar to those of the Association with respect to the Common Areas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.
- 9.03 Amendment.
- (A) By Declarant. This Declaration may be amended by the Declarant, acting alone, until ten (10) years from date hereof ("the Transition Date"), and thereafter for so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant shall be effective until there has been recorded in the Official Records of Washington County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and, if amended after the Transition Date, an instrument executed and acknowledged by the Secretary of the Association, certifying that the Declarant had the requisite number of votes.
- (B) By Owners. In addition to the method in Section 9.03 (A), after the Transition Date, this Declaration may be amended by the recording in the

Official Records of Washington County of an Instrument executed and acknowledged by the President and Secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least fifty-one percent (51%) of the number of votes entitled to be cast pursuant to Section 5.03 hereof.

- 9.04 Notices. Any notice permitted or required by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.
- 9.05 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed, governed and enforced under the laws of the State of Texas.
- 9.06 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to (i) excavate and grade, (ii) construct and alter drainage patterns and facilities, (iii) construct any and all other types of Improvements, sales and leasing offices, and similar facilities, and (iv) post signs incidental to construction, sales, and leasing anywhere within the Property.
- 9.07 Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.
- 9.08 Enforcement and Nonwaiver.
- (A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce any and all of the provisions of the Declarations. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.



- (B) Nonwaiver. The failure to enforce any provision of the Declarations at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.
- (C) Liens. The Association shall have the right, when appropriate in this judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

9.09 Construction.

- (A) Restrictions Severable. The provisions of the Declarations shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine, and neuter.
- (C) Sole and Absolute Discretion. Notwithstanding anything herein to the contrary, whenever a party to this Declaration is entitled to exercise its "sole and absolute discretion", such discretion may be exercised by that party for any reason or for no reason, whether such discretion is arbitrary, uncontrolled or unreasonable. Any parties' exercise of its "sole and absolute discretion" shall be final and shall not be subject to appeal or be subject to adjudication by a court of law, arbitration, mediation, or otherwise.
- (D) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles.
- (E) Deadlines on Business Day. If any deadline in this Declaration should fall on a Saturday, Sunday or a Texas or federal holiday, such deadline shall automatically be extended to the next business day.
- (F) Choice of Law. This Declaration shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 25th day of FEBRUARY, 2014.

DECLARANT:

BCS DEVELOPMENT COMPANY

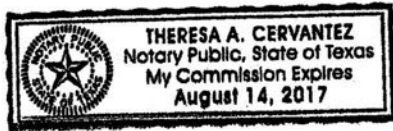
By:

[Signature]  
CHARLES R. FRENCH, President

STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 25th day of February, 2014, by CHARLES R. FRENCH, President of BCS DEVELOPMENT COMPANY, a Texas corporation, on behalf of said corporation and in the capacity herein stated.



[Signature]  
Notary Public, State of Texas

RECORDING PAID FOR BY: HLEP 130210  
AFTER RECORDING RETURN TO:

CULLY LIPSEY

PREPARED IN THE LAW OFFICE OF:  
HOELSCHER, LIPSEY, ELMORE & POOLE, P.C.  
1021 University Drive East  
College Station, Texas 77840  
WCL\DECLARATIONS\RALSTON CREEK\CCR (vsj)

## EXHIBIT "A"

Being all that certain tract or parcel of land lying and being situated in the JAMES WALKER SURVEY, Abstract No. 106 in Brenham, Washington County, Texas and being part of the 15.007 acre tract described in the deed from LaVerna Landua to BCS Development Company recorded in Volume 1394, Page 118 of the Official Records of Washington County, Texas (O.R.W.C.), part of the 36.116 acre tract described in the deed from Robert W. Parker and spouse, Ruth Parker to BCS Development Company recorded in Volume 1394, Page 108 (O.R.W.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 1/2-inch iron rod (capped 2835) marking the northwest corner of the said 15.007 acre tract, said iron rod also being in the southeast margin of Stone Street as monumented, from whence a found 1/2-inch iron rod marking the northwest corner of the called 37.0397 acre LaVerna Landua residual tract as recorded in Volume 352, Page 401 of the Walker County Deed Records (W.C.D.R.) bears S 75° 05' 19" W at a distance of 440.04 feet for reference;

THENCE: N 75° 05' 19" E along the southeast margin of said Stone Street for a distance of 59.49 feet to a power pole marking the northeast corner of the said 15.007 acre tract and the northwest corner of the said 36.116 acre tract;

THENCE: N 75° 15' 00" E continuing along the said Stone Street line for a distance of 336.70 feet to a 1/2-inch iron rod set for the northeast corner of this tract;

THENCE: into the interior of the said 36.116 acre BCS Development tract for the following ten (10) calls:

- 1) 39.81 feet in a counter-clockwise direction along the arc of a curve having a central angle of 91° 14' 24", a radius of 25.00 feet, a tangent of 25.55 feet and a long chord bearing S 29° 37' 48" W at a distance of 35.74 feet to a 3/4-inch iron pipe set for the Point of Tangency,
- 2) S 15° 59' 24" E for a distance of 85.02 feet to a 3/4-inch iron pipe set for the Point of Curvature of a curve to the left,
- 3) 38.73 feet along the arc of said curve having a central angle of 88° 45' 36", a radius of 25.00 feet, a tangent of 24.46 feet and a long chord bearing S 60° 22' 12" E at a distance of 34.97 feet to a 3/4-inch iron pipe set for the Point of Tangency,
- 4) N 75° 15' 00" E for a distance of 29.92 feet to a 1/2-inch iron rod set for corner,
- 5) S 14° 45' 00" E for a distance of 55.00 feet to a 1/2-inch iron rod set for corner,
- 6) S 75° 15' 00" W for a distance of 101.57 feet to a 1/2-inch iron rod set for corner,
- 7) S 35° 08' 05" E for a distance of 286.33 feet to a 1/2-inch iron rod set for corner,
- 8) S 65° 46' 33" E for a distance of 153.74 feet to a 1/2-inch iron rod set for corner,
- 9) S 53° 19' 42" E for a distance of 90.03 feet to a 1/2-inch iron rod set for corner, and
- 10) S 01° 13' 55" W for a distance of 115.41 feet to a 1/2-inch iron rod set for corner;

THENCE: S 51° 36' 38" W continuing through the said 36.116 acre tract, at 294.75 feet pass the common southwest line of the said 36.116 acre tract and the northeast line of the said 15.007 acre tract, continue through the said 15.007 acre tract for a total distance of 498.31 feet to 1/2-inch iron rod set for corner in the upper southwest line of the said 15.007 acre tract;

THENCE: N 21° 39' 50" W along said upper southwest line for a distance of 942.93 feet to the POINT OF BEGINNING and containing 7.864 acres of land, more or less.

**EXHIBIT "B"**

Being all that certain tract or parcel of land lying and being situated in the JAMES WALKER SURVEY, Abstract No. 106 in Brenham, Washington County, Texas and being part of the 36.116 acre tract described in the deed from Robert W. Parker and spouse, Ruth Parker to BCS Development Company recorded in Volume 1394, Page 108 of the Official Records of Washington County, Texas (O.R.W.C.) and being more particularly described by metes and bounds as follows:

**BEGINNING:** at a found TxDOT concrete monument (Broken) marking the intersection of the westerly right-of-way line of F.M. Highway 577 (commonly known as South Blue Bell Road) and the monumented northwest margin of Gun and Rod Road, said monument also being at or near the common southeast line of the said JAMES WALKER SURVEY, A-106 and the northwest line of the ISAAC LEE SURVEY, Abstract No. 77;

**THENCE:** S 75° 10' 29" W along the said northwest margin of Gun and Rod Road, said line being the approximate common line of said JAMES WALKER and ISAAC LEE SURVEYS for a distance of 433.94 feet to a found 1/2-inch iron rod (capped 2835) for corner;

**THENCE:** S 77° 00' 09" W continuing along the said Gun and Rod Road line for a distance of 295.44 feet to a 1/2-inch iron rod set for corner;

**THENCE:** through the interior of the said 36.116 acre BCS Development tract for the following seven (7) calls:

- 1) N 15° 32' 48" W for a distance of 335.46 feet to a 1/2-inch iron rod set for corner,
- 2) N 29° 26' 31" W for a distance of 371.84 feet to a 1/2-inch iron rod set for corner,
- 3) N 57° 27' 27" E for a distance of 223.96 feet to a 1/2-inch iron rod set for corner,
- 4) N 43° 51' 42" E for a distance of 100.53 feet to a 1/2-inch iron rod set for corner,
- 5) N 30° 40' 51" E for a distance of 108.67 feet to a 1/2-inch iron rod set for corner,
- 6) N 24° 06' 44" E for a distance of 123.84 feet to a 1/2-inch iron rod set for corner, and
- 7) N 55° 47' 46" E for a distance of 103.60 feet to a 1/2-inch iron rod set for corner in the before-said west right-of-way line of F.M. Highway 577;

**THENCE:** along the west right-of-way line of said F.M. Highway 577 for the following six (6) calls:

- 1) S 33° 39' 45" E for a distance of 6.99 feet to a found TxDOT concrete monument (Broken),
- 2) S 29° 48' 33" E for a distance of 67.39 feet to a found TxDOT concrete monument (Broken),
- 3) S 31° 09' 02" E for a distance of 68.25 feet to a found TxDOT concrete monument (Broken),
- 4) S 29° 26' 31" E for a distance of 531.80 feet to a found TxDOT concrete monument (Broken),
- 5) S 28° 51' 36" E for a distance of 199.69 feet to a found TxDOT concrete monument (Broken),  
and
- 6) S 30° 50' 08" E for a distance of 193.93 feet to the POINT OF BEGINNING and containing 12.775 acres of land, more or less.

Exhibit "C"

Page 1 of 3 Pages

Form 202  
(Revised 05/11)  
Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512/463-5709  
Filing Fee: \$25



Certificate of Formation  
Nonprofit Corporation

This space reserved for office use.

FILED  
In the Office of the  
Secretary of State of Texas

MAY 29 2013

Corporations Section

Article 1 - Entity Name and Type

The filing entity being formed is a nonprofit corporation. The name of the entity is:

Ralston Creek Estates Homeowner's Association, Inc.

Article 2 - Registered Agent and Registered Office  
(See instructions. Select and complete either A or B and complete C.)

A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Randy		French	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

C. The business address of the registered agent and the registered office address is:

4090 Hwy 6 South	College Station	TX	77845
<i>Street Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

Article 3 - Management

The management of the affairs of the corporation is vested in the board of directors. The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of members or until their successors are elected and qualified are as follows:

*A minimum of three directors is required.*

Director 1				
Randy		French		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
4090 Hwy 6 South	College Station	TX	77845	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>



Director 2				
Doug		French		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
4090 Hwy 6 South		College Station	TX	77845 USA
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip Code</i> <i>Country</i>

Director 3				
Jeff		French		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
4090 Hwy 6 South		College Station	TX	77845 USA
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip Code</i> <i>Country</i>

OR

The management of the affairs of the corporation is to be vested in the nonprofit corporation's members.

**Article 4 - Membership**

(See instructions. Do not select statement B if the corporation is to be managed by its members.)

- A. The nonprofit corporation shall have members.
- B. The nonprofit corporation will have no members.

**Article 5 - Purpose**

(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:

To provide for the management, maintenance, preservation, and architectural control of the subdivision as more particularly described in the plat of the Ralston Creek subdivision now or hereafter appearing of record in Washington County, Texas

*The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.*

Exhibit "C"  
Page 2 of 3 Pages

Supplemental Provisions/Information  
(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

Exhibit "C"  
Page 3 of 3 Pages

Organizer

The name and address of the organizer:

Cully Lipsey

Name

1021 University Drive East

College Station

TX

77840

Street or Mailing Address

City

State

Zip Code

Effectiveness of Filing (Select either A, B, or C.)

- A.  This document becomes effective when the document is filed by the secretary of state.
- B.  This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C.  This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

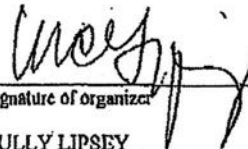
The following event or fact will cause the document to take effect in the manner described below:

[Empty box for event or fact]

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: 5/28/13



Signature of organizer

CULLY LIPSEY

Printed or typed name of organizer

BYLAWSExhibit "B"Page 1 of 19 PagesOFRALSTON CREEK ESTATES HOMEOWNER'S ASSOCIATION, INC.  
(A Texas Nonprofit Corporation)

## ARTICLE 1

## INTRODUCTION

1.1 PURPOSE OF BYLAWS. These Bylaws ("Bylaws") provide for the governance of RALSTON CREEK ESTATES HOMEOWNER'S ASSOCIATION, INC. ("Association") a Property Owners Association, as that term is defined in Texas Property Code §209.002(7), whose Members consist of the owners of Lots in Ralston Creek Estates Subdivision, located in Washington County, Texas ("Subdivision"), covered by a dedicatory instrument entitled Declaration of Covenants, Conditions and Restrictions for Ralston Creek Estates, recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Official Records, Washington County, Texas ("Declaration").

1.2 DEFINITIONS. Words and phrases defined in the Declaration shall have the same meanings when used in these Bylaws. Unless defined otherwise in the Declaration or in these Bylaws, words and phrases defined in Texas Property Code §209.002 shall have the same meaning when used in these Bylaws. The following words and phrases shall have specified meanings when used in these Bylaws:

- a. "Board of Directors" or "Board" means the Board of Directors of Ralston Creek Estates Homeowner's Association, Inc., the group of persons vested with the management of the affairs of the Association.
- b. "Board Meeting" means a deliberation between a quorum of the voting Board, or between a quorum of the voting Board and another person, during which Association business is considered and the Board takes formal action; and does not include the gathering of a quorum of the Board at a social function unrelated to the business of the Association or the attendance of the Board at a regional, state, or national convention or ceremonial event, or press conference, if formal action is not taken and any discussion of Association business is incidental to the social function, convention, ceremonial event, or conference.
- c. "Business Organization Code" means the governing laws of the State of Texas for nonprofit corporations.
- d. "Officer" means an Officer of the Association. "President," "Vice-President," "Secretary," and "Treasurer" mean, respectively, the President, Vice-President, Secretary, and Treasurer of the Association.

- e. "Declarant Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint and remove the members of the Board of Directors and the officers of the Association, other than Board members or officers elected by Members of the Association pursuant to these Bylaws.
- f. "Dedicatory Instrument" means each governing instrument covering the establishment, maintenance, and operation of the Subdivision. The term includes the Declaration, Certificate of Formation, Bylaws, Architectural Control Guidelines, Rules and Regulations, Alternative Payment Guidelines, and Open Records and Records Retention Policies.
- g. "Development Period" means the period in which Declarant reserves a right to facilitate the development, constructions, and marketing of the Subdivision, and a right to direct the size, shape, and composition of the Subdivision.
- h. "Director" means a member of the Board of Directors of the Association.
- i. "Governing documents" means, collectively, the Declaration, these Bylaws, the Certificate of Formation, Design Guidelines, Policies, and the Rules and Regulations of the Association.
- j. "Majority" means more than fifty percent (50%).
- k. "Managing Agent" means the Association's designated representative as it appears on the Management Certificate.
- l. "Management Certificate" means the instrument required to be recorded pursuant to Section 209.004 of the Texas Residential Property Owners Protection Act.
- m. "Member" means a Member of the Association, each Member being an Owner of a Lot in the Subdivision, unless the context indicates that a Member means a member of the Board of Directors or a member of a committee of the Association.
- n. "Ordinary care" means the care that an ordinarily prudent person in a similar position would exercise under similar circumstances.
- o. "Owner" shall mean and refer to the holder of record, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Subdivision, including contract buyers (a buyer under an executory contract for conveyance), but excluding those having such interest merely as a security for the performance of an obligation (i.e., holders of mortgages and home equity loans).
- p. "Policies" mean the Alternative Payment Guidelines, and Open Records, and Records Retention Policies.
- q. "Texas Residential Owners Protection Act" or "The Act" shall refer to Texas Property Code Chapter 209, as same may be amended or repealed in whole or in part.

Exhibit "D"

Page 3 of 19 Pages

Other definitions contained in the Declaration are incorporated herein by reference, as if fully set forth.

1.3 NONPROFIT PURPOSE. The Association is not organized for profit and is governed by Chapter 22 of the Business Organizations Code.

1.4 COMPENSATION. A Director, Officer, or Member shall not be entitled to receive any pecuniary profit for the operation of the Association, and no dividend or assets of the Association shall be distributed to, or inure to the benefit of a Director, Officer, or Member, provided, however:

- a. That reasonable compensation may be paid to a Director, Officer, or Member, for services rendered to the Association;
- b. That a Director, Officer, or Member may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided such expense has been approved by the Board.

1.5 GENERAL POWERS AND DUTIES. The Association, acting through the Directors, shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Subdivision as may be required or permitted by the governing documents and state law. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the governing documents.

## ARTICLE 2

### MEMBERSHIP

2.1 MEMBERSHIP. Every person or entity who is a record Owner of any Lot which is subject to assessments provided in the Declaration shall be a Member of the Association. All present or future Members are subject to the Certificate of Formation, Declaration and these Bylaws, and other dedicatory instruments. Membership in the Association will signify that each Lot Owner appoints the Board of Directors of the Association to manage or regulate the Subdivision in accordance with the provisions set forth in the dedicatory instruments are accepted, ratified, and will be strictly followed. Further, Membership in the Association will signify that the Owner has designated the Association as its representative to initiate, defend or intervene in litigation or an administrative proceeding affecting the enforcement of the Declaration or the protection, preservation or operation of the Subdivision.

2.2 CLASSES OF MEMBERSHIP. The Association shall initially have two classes of Membership:

- a. Class "A" Members shall be all Owners with the exception of the Class "B" Member; and



- b. Class "B" Member shall be Declarant, his successors and assigns who take title for the purposes of development and sale of the Subdivision.

ARTICLE 3

Exhibit "D"

GOVERNING BODY

Page 4 of 19 Pages

3.1 BOARD OF DIRECTORS. The Board of Directors shall govern the Association, each of whom shall have one (1) vote. The Board shall consist of five (5) Directors. Directors shall be elected at the first annual meeting. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent, death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The number of Directors may be changed by amendment of these Bylaws, but shall not be less than three (3); however, a decrease in the number of Directors may not shorten the term of an incumbent Director. Notwithstanding anything contained in these Bylaws, during the Declarant Control Period, the Class "B" Member is entitled to appoint and remove the members of the Board of Directors and the officers of the Association. Thereafter, at least one-third (1/3) of the members of the Board shall be elected by the Owners other than the Declarant not later than the tenth (10<sup>th</sup>) anniversary after this Declaration was recorded in the Official Records of Washington County, Texas.

3.2 QUALIFICATION AND TERM. After the Declarant Control Period expires, and the Class "B" membership ceases to exist, all Directors must be Members of the Association. At the first annual meeting after the expiration of the Declarant Control Period, the Members shall elect two (2) Directors to three (3) year terms, one Director to a two (2) year term, and one (1) Director to a one (1) year term. At each annual meeting thereafter, the Members shall elect one (1) Director to serve a three (3) year term.

3.2.1 Co-Owners. Co-Owners of a single Lot may not serve on the Board at the same time. Co-Owners of more than one Lot may serve on the Board at the same time, provided the number of Co-Owners serving at one time does not exceed the number of Lots they co-own.

3.3 ELECTION. Directors shall be elected by the Members by written ballot. The election of Directors shall be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by mail, facsimile transmission, or a combination of mail and facsimile transmission. Any Board Member whose term has expired must be elected by the Members.

3.4 VACANCIES. A Board Member may be appointed by a majority of the remaining Board Members only to fill a vacancy caused by resignation, death, or disability. Each Director so elected shall serve out the remaining term of his predecessor. This section does not apply to the appointment of a Board Member during the Declarant Control Period.

3.5 REMOVAL OF DIRECTORS. At any Annual or special meeting of the Association, any one or more of the Directors may be removed with or without cause by Members representing a majority of the votes present in person or by proxy at such meeting, and a successor shall then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. However,

if the Board is presented with written, documentary evidence from a database or other record maintained by a governmental law enforcement authority that a Board Member had been convicted of a crime of moral turpitude, the Member is immediately ineligible to serve on the Board, and is automatically considered removed from the Board, and is prohibited from future service on the Board.

Exhibit "D"

### 3.6 MEETINGS OF THE BOARD.

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3.6.1 Organizational Meeting of the Board. After the Certificate of Formation is filed, the Board of Directors named in the Certificate of Formation shall hold an organizational meeting of the Board, at the call of a majority of the Directors to adopt these Bylaws and elect officers and for other purposes determined by the Board at the meeting. The Directors calling the meeting shall send notice of the time and place of the meeting to each Director named in the Certificate of Formation not later than the third day before the date of the meeting. Within ten (10) days after each annual meeting, the Directors shall convene an organizational meeting for the purpose of electing Officers. The time and place of such meeting shall be fixed by the Board and announced to the Directors.

3.6.2 Open Meetings of the Board. Regular and special board meetings must be open to Owners, subject to the right of the Board to adjourn a board meeting and reconvene in a closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual Owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in an executive session. This section applies to a meeting of the Association Board during the Declarant Control Period only if the meeting is conducted for the purpose of adopting or amending the dedicatory instruments of the Association, increasing the amount of Regular Assessments of the Association or adopting or increasing a Special Assessment; electing non-developer Board members of the Association or establishing a process by which those members are elected; or changing the voting rights of Members of the Association.

### 3.7 NOTICE OF BOARD MEETINGS.

3.7.1 To Board Members. Subject to the Act and other provisions of the Association's dedicatory instruments, regular meetings of the Board shall be held on the first Tuesday of each month at 7:00 p.m. at the address of the Association's Managing Agent as designated on the most recent Management Certificate. Notice of special meetings shall be provided to each Director at least seventy-two (72) hours before the start of the meeting. Attendance of a Director at a meeting constitutes a waiver of notice, unless the Director attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

3.7.2 To Members. Members shall be given notice of the date, hour, place, and general subject of a regular or special Board meeting, including a general description of any matter to be

brought up for deliberation in an executive session. The notice shall be mailed to each Member not later than the tenth (10<sup>th</sup>) day or earlier than the sixtieth (60<sup>th</sup>) day before the date of the meeting; or provided at least seventy-two (72) hours before the start of the meeting by posting the notice in a conspicuous manner reasonably designed to provide notice to Members in a place located in the Common Area or, with the property Owner's consent, on other conspicuously located privately owned property within the Subdivision; or on any Internet website maintained by the Association or other Internet media; and sending the notice by e-mail to each Owner who has registered an e-mail address with the Association. It is an Owner's duty to keep an updated e-mail address registered with the Association.

3.8 SPECIAL MEETINGS OF THE BOARD. Special meetings of the Board may be called by the President or, if he or she is absent or refuses to act, by any two (2) Directors. At least three (3) days notice shall be given to each Director, personally or by telephone or written communication, which notice shall state the place, time, and purpose of such meeting.

3.9 CONDUCT OF MEETINGS. The President shall preside over all meetings of the Board and the Secretary shall keep, or cause to be kept, a record of all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. When not in conflict with law or the governing documents, the then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board.

3.10 QUORUM. At all meetings of the Board, a Majority of Directors shall constitute a quorum for the transaction of Business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If less than a quorum is present at any meeting of the Board, the majority of those present may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice. A Director present by proxy at a meeting may not be counted toward a quorum.

3.11 PROXY. A Director may vote in person or, by proxy executed in writing by the Director. A proxy expires three (3) months after the date the proxy is executed.

3.12 PLACE OF MEETINGS. Except for a meeting held by electronic or telephonic means, a Board meeting must be held in a county in which all or part of the property in the Subdivision is located or in a county adjacent to that county.

3.13 METHOD OF MEETING. The Board may meet by any method of communication, including electronic and telephonic, without prior notice to Owners, if each Director may hear and be heard by every other Director, or the Board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board action. A remote electronic communications system, including videoconferencing technology or the Internet, may be used only if each person entitled to participate in the meeting consents to the meeting being held by means of that system, and the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant. Any action taken without notice to Owners must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may not, without prior notice to Owners under

## Exhibit "D"

## Page 7 of 19 Pages

consider or vote on fines, damage assessments, initiation of foreclosure actions, initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety, increase in Regular Assessments, levying of Special Assessments, appeals from a denial of architectural control approval, or a suspension of a right of a particular Owner before the Owner has an opportunity to attend a Board meeting to present the Owner's position, including any defense, on the issue.

3.14 MINUTES. The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's Managing Agent at the address appearing on the most recently filed Management Certificate or, if there is not a Managing Agent, to the Board.

3.15 RECESS. If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent the requisites of this Article. If a regular or special Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner prescribed by the Act and these Bylaws within two (2) hours after adjourning the meeting being continued.

3.16 ACTION WITHOUT A MEETING. Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all of the Directors individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the Board. Action by written consent shall have the same force and effect as a unanimous vote.

3.17 LIABILITIES AND STANDARD OF CARE. A Director shall discharge the Director's duties, including duties as a committee member, in good faith, with ordinary care, and in a manner the Director reasonably believes to be in the best interest of the Association. A Director is not liable to the Association, a Member, or another person for an action taken or not taken as a Director if the Director acted in compliance with this section. A person seeking to establish liability of a Director must prove that the Director did not act in good faith, with ordinary care, in a manner the Director reasonably believed to be in the best interest of the Association. A Director is not considered to have the duties of a trustee of a trust with respect to the Association or with respect to property held or administered by the Association. A Director is not if, in the exercise of ordinary care, the Director acted in good faith and in reliance on the written opinion of an attorney for the Association.

3.18 INTERESTED DIRECTORS. A contract or transaction between the Association and one or more Directors, Officers, or Members which have a financial interest otherwise valid and enforceable contract or transaction is valid and enforceable, and is not void or voidable, notwithstanding any relationship or interest, if the material facts as to the relationship or interest and as to the contract or transaction are disclosed to or known by the Association's Board of Directors, a committee of the Board of Directors, or the Members, and the Board, the committee, or the Members in good faith and with ordinary care authorize the contract or transaction by the affirmative vote of the majority of the disinterested Directors, committee members or Members, regardless of whether the disinterested Directors, committee members or Members constitute a



quorum of the Members entitled to vote on the authorization of the contract or transaction, and the contract or transaction is specifically approved in good faith and with ordinary care by a vote of the Members, or the contract or transaction is fair to the Association when the contract or transaction is authorized, approved, or ratified by the Board of Directors, a committee of the Board of Directors, or the Members. Common or interested Directors or Members of the Association may be included in determining the presence of a quorum at a meeting of the Board, a committee of the Board, or Members that authorize the contract or transaction. The person who has the relationship or interest may be present at or participate in and, if the person is a Director, Member, or committee member, may vote at a meeting of the Board of Directors, of the Members, or of a committee of the Board that authorized the contract or transaction; or sign, in the person's capacity as a Director, Member, or committee member, a written consent of the Directors, Members, or committee members to authorize the contract or transaction.

3.19 POWERS AND DUTIES. The Board shall have all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Subdivision. The Board may do all such acts and things except those which, by law or the governing documents are reserved to the Members and may not be delegated to the Board. The act of a majority of the Directors present in person or by proxy at a meeting at which a quorum is present is the act of the Board of Directors. Without prejudice to the general and specific powers and duties set forth in laws or the governing documents, or such powers and duties as may hereafter be imposed on the Board by resolution of the Association, the powers and duties of the Board shall include, but shall not be limited to, the following:

- a. Rules and Regulations. The Board, by resolution may from time to time adopt and publish Rules and Regulations governing use of the Common Area and the personal conduct of the Members, and their guests, and may suspend the right to use of the Common Area, after notice and hearing, pursuant to Sections 209.006 and 209.007 of the Act.
- b. Guests. The Board may limit the number of guests of Owners with respect to the use of the Common Areas.
- c. Delinquent Accounts. The Board may establish, levy, and collect reasonable late charges for Members' delinquent accounts. The Board may also establish a rate of interest to be charged on Members' delinquent accounts, provided the rate of interest does not exceed eighteen percent (18%) or the maximum rate permitted by state law, whichever is the lesser.
- d. Fidelity Bonds. The Board shall require that all Officers, agents, and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds may be an expense of the Association.
- e. Employees. The Board may employ independent contractors or employees as deemed necessary, and may prescribe their duties.
- f. Appointment of Committees. The Board, by resolution, may from time to time designate standing or *ad hoc* committees to advise or assist the Board with its



Exhibit "D"

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responsibilities. The resolution shall establish the purposes and powers of each committee created, provide for the appointment of its members, as well as chairman, and shall provide for reports, termination, and other administrative matters deemed appropriate by the Board. Committees may be appointed from among the Members or professionals in the area of expertise for which the committee is formed.

- g. Fines. In addition to, or in lieu of, other remedies as provided by law, the Board may levy fines for each day or occurrence that a violation of the dedicatory instruments persists after notice and hearing, provided the amount of the fine does not exceed the amount necessary to ensure compliance with the dedicatory instruments.
- h. Contracts for Services. The Board may enter into contracts for services on behalf of the Association, and, when appropriate, shall solicit competitive bids based on a standard statement of work prepared or approved by the Board.
- i. Professional Association Management Services. The Board may employ a Managing Agent for the Association, at a compensation established by the Board, to perform duties and services authorized by the Board. The Board shall execute and file Management Certificates in accordance with Section 209.004 of the Act.

3.20 FINANCIAL RECORDS AND ANNUAL REPORTS. The Board shall maintain current and accurate financial records with complete entries as to each financial transaction of the Association, including income and expenditures, in accordance with generally accepted accounting principles. The Board shall annually prepare or approve a financial report for the Association for the preceding year. The report must conform to accounting standards as adopted by the American Institute of Certified Public Accountants and must include: a statement of support, revenue and expenses, a statement of changes in fund balances, a statement of functional expenses, and a balance sheet for each fund.

3.21 DISSENT TO ACTION. A Director who is present at a meeting of the Board of Directors at which action is taken on an Association matter is presumed to have assented to the action unless the Director's dissent has been entered in the minutes of the meeting, the Director has filed a written dissent to the action with the person acting as the secretary of the meeting before the meeting is adjourned, or the Director has sent a written dissent by registered mail to the Secretary of the Association immediately after the meeting has been adjourned. The right to dissent under this section does not apply to a Director who voted in favor of the action.

#### ARTICLE 4

#### OFFICERS

4.1 DESIGNATION. The principal Officers of the Association shall be the President, the Vice-President, the Secretary, and the Treasurer. The Board may appoint such other Officers and Assistant Officers as it deems necessary. The President and Vice-President shall be Directors. Other Officers may, but need not, be Directors. Any two offices may be held by the same person, except the offices of President and Secretary. If an Officer is absent or unable to act, the Board

may appoint a Director to perform the duties of that Officer and to act in place of that Officer, on an interim basis.

4.2 ELECTION OF OFFICERS. The Officers shall be elected no less than annually by the Directors at the organizational meeting of the Board and shall hold office at the pleasure of the Board. Except for resignation or removal, Officers shall hold office until their respective successors have been designated by the Board.

4.3 REMOVAL AND RESIGNATION OF OFFICERS. A majority of Directors may remove any Officer, with or without cause, at any regular meeting of the Board or at any special meeting of the Board called for that purpose. A successor may be elected at any regular or special meeting of the Board called for that purpose. An Officer may resign at any time by giving written notice of the Board. Unless the notice of resignation state otherwise, it is effective when received by the Board and does not require acceptance by the Board. The resignation or removal of an Officer who is also a Director does not constitute resignation or removal from the Board.

4.4 STANDARD OF CARE. An Officer is not liable to the Association or any other person for an action taken or omission made by the Officer in the person's capacity as an Officer unless the Officer's conduct was not exercised in good faith with ordinary care, and in a manner the Officer reasonably believes to be in the best interest of the Association. This section shall not affect the liability of the Association for an act or omission of the Officer.

#### 4.5 DESCRIPTION OF PRINCIPAL OFFICES.

4.5.1 President. As the chief executive Officer of the Association, the President shall be a Director and shall: (in) preside at all meetings of the Association and of the Board; (ii) have all the general powers and duties which are usually vested in the office of President of a corporation organized under the laws of the State of Texas; (iii) have general supervision, direction, and control of the business of the Association, subject to the control of the Board; and (iv) see that all orders and resolutions of the Board are carried into effect. The President shall not vote except to break a tie.

4.5.2 Vice-President. The Vice-President shall be a Director and, in the absence of the President or in the event of the President's inability or refusal to act, shall perform the duties of the President. The Vice-President shall perform such duties as are assigned by the President and Board.

4.5.3 Secretary. The Secretary shall: (in) be responsible for Association funds; (ii) keep full and accurate financial records and books of account showing all receipts and disbursements; (iii) maintain a record of the names and addresses of the Members for the mailing of notices; (v) prepare and give all notices in accordance with the Texas Business Organizations Code and the governing documents; (vi) act as the custodian of records of the Association; (vii) review all mail on behalf of the Association; (viii) keep a current register of the names and addresses of Members; and (ix) in general, perform all duties incident to the office of Secretary.

4.5.4 Treasurer. The Treasurer shall: (in) be responsible for Association funds; (ii) keep full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepare all required financial data and tax returns; (iv) deposit all monies or other valuable

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effects in the name of the Association in such depositories as may from time to time be designated by the Board; (v) prepare the annual and supplemental budgets of the Association; (vi) review the accounts of the Managing Agent on a monthly basis in the event such Managing Agent is responsible for collecting and disbursing Association funds; and (vii) perform all the duties incident to the office of Treasurer.

4.6 AUTHORIZED AGENTS. Except when the governing documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association, by written resolution. In the absence of Board designation, the President and the Vice-President shall be the only persons authorized to execute instruments on behalf of the Association.

## ARTICLE 5

### MEETINGS OF THE ASSOCIATION

5.1 ANNUAL MEETING. Annual meetings of the Association shall be held at 2:00 p.m. on the third Sunday in March each year, or within thirty (30) days thereafter, weather permitting. At the annual meeting the Members shall elect Directors in accordance with these Bylaws. The Members may also transact such other business of the Association as may properly come before them. Notwithstanding any other provision in these Bylaws, the Board shall call an Annual Meeting of the Members of the Association.

5.2 MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL ANNUAL MEETING. If the Board does not call an Annual Meeting of the Members of the Association, an Owner may demand that a meeting of the Association be called not later than the thirtieth (30<sup>th</sup>) day after the date of the Owner's demand. The Owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the Association and to the Association at the address for the Association according to the most recently filed Management Certificate. A copy of the notice must be sent to each Owner who is a Member of the Association. If the Board does not call a meeting of the Members of the Association on or before the thirtieth (30<sup>th</sup>) day after the date of a demand, three or more Owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the Subdivision is located. A notice filed by an election committee must contain: (in) a statement that an election committee has been formed to call a meeting of Owners who are Members of the Association for the sole purpose of electing Board Members; (ii) the name and residential address of each committee member; and (iii) the name of the Subdivision over which the Association has jurisdiction under the dedicatory Instruments. Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments. The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records. Only one committee in the Subdivision may operate under this section at one time. If more than one committee in a Subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four (4) months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section. The election committee may call meetings of the Owners who are Members of the

Association for the sole purpose of electing Board Members. Notice, quorum, and voting provisions contained in these Bylaws apply to any meeting called by the election committee.

5.3 SPECIAL MEETINGS. It shall be the duty of the President to call a special meeting of the Association if directed to do so by majority of the Board or by a petition signed by Members representing at least ten percent (10%) of the eligible votes in the Association. Such meeting shall be held within thirty (30) days after the Board resolution or receipt of the petition. The notice of any special meeting shall state the time, place, and purpose of such meeting. No business, except the purpose stated in the notice of the meeting, shall be transacted at a special meeting.

5.4 PLACE OF MEETINGS. Meetings of the Association shall be held at place as is designated by the Board in the notice of the meeting.

5.5 NOTICE OF MEETINGS. Not later than the tenth (10<sup>th</sup>) day or earlier than the sixtieth (60<sup>th</sup>) day before the date of an election or vote, the Association shall give written notice of the election or vote to each Owner in the Association, for purposes of an Association-wide election or vote or to vote for the elections of members of the Board.

5.6 ELIGIBILITY. All Members of the Association may receive notice of meetings of the Association, vote at meetings of the Association, or be elected to serve as a Director.

5.7 RECORD DATES.

5.7.1 Determining Notice Eligibility. The Board shall fix a date as the record date for determining the Members entitled to notice of a meeting of the Association. The record date may not be more than sixty (60) days before the date of a meeting of the Association at which Members will vote.

5.7.2 Determining Voting Eligibility. The Board shall fix a date as the record date for determining the Members entitled to vote at a meeting of the Association. The record date may not be more than sixty (60) days before the date of a meeting of the Association at which Members will vote.

5.7.3 Determining Rights Eligibility. The Board shall fix a date as the record date for determining the Members entitled to exercise any rights other than those described in the preceding two paragraphs. The record date may not be more than sixty (60) days before the date of the action for which eligibility is required, such as a nomination to the Board.

5.7.4 Adjournments. A determination of Members entitled to notice of or to vote at a meeting of the Association is effective for any adjournment of the meeting unless the Board fixes a new date for determining the right to notice or the right to vote. The Board must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than ninety (90) days after the record date for determining Members entitled to notice of the original meeting.

5.8 VOTING MEMBERS LIST. The Board shall prepare and make available a list of the Association's voting Members in accordance with Business Organizations Code Section 22.158. After setting a record date for the notice of a meeting, the Association shall prepare an



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alphabetical list of the names of all its voting Members. The list must identify the Members who are entitled to notice, the address of each voting Member and the number of votes each voting Member is entitled to cast at the meeting. Not later than the second (2<sup>nd</sup>) business day after the date notice is giving of a meeting for which a list was prepared in accordance with this section, and continuing through the meeting, the list of voting Members must be available at the office of the Association's Managing Agent, according to the most recent Management Certificate recorded, as identified in the notice of the meeting, for inspection by Members entitled to vote at the meeting for the purpose of communications with other Members concerning the meeting. A voting Member or voting Member's agent or attorney is entitled on written demand to inspect any, at the Member's expense and subject to Section 209.005 of the Act, copy the list at a reasonable time during the period the list is available for inspection. The Association shall make the list of voting Members available at the meeting. A voting Member or voting Member's agent or attorney is entitled to inspect the list at any time during the meeting or an adjournment of the meeting.

5.9 QUORUM. At any meeting of the Association, the presence in person or by proxy of Members entitled to cast at least ten percent (10%) of the votes that may be cast for election of the Board shall constitute a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of Members constituting a quorum.

5.10 LACK OF QUORUM. If a quorum shall not be present or represented at any meeting, the Members entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present and represented.

5.11 VOTES. Members of the Association shall have one vote for each Lot owned in the Subdivision. The vote of Members representing at least a majority of the votes cast at any meeting at which a quorum is present shall be binding upon all Members for all purposes, except when a higher percentage is required by the Declaration or these Bylaws. There shall be no cumulative voting. The voting rights of an Owner may be cast or given in person or by proxy at a meeting of the Association; by absentee ballot in accordance with this section; or by electronic ballot in accordance with these Bylaws.

5.12 PROXIES. Unless otherwise provided by the proxy, a proxy is revocable and expires eleven (11) months after the date of its execution. A proxy may not be irrevocable for longer than eleven (11) months.

5.13 BALLOTS. Any vote cast in an election or vote by a Member of the Association must be in writing and signed by the Member. In an Association-wide election, written and signed ballots are not required for uncontested races. Electronic votes cast as provided below constitute written and signed ballots. An absentee or electronic ballot may be counted as an Owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot, and may not be counted for the purpose of establishing a quorum only for items appearing on a ballot even if properly delivered, if the owner attends any meeting to vote in person. Any vote cast at a meeting by an Owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal, and may not be counted on the final absentee or electronic ballot. A solicitation for votes by absentee ballot must include: an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;



instructions for delivery of the completed absentee ballot, including the delivery location; and the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail." For the purposes of this section, "electronic ballot" means a ballot, giving by e-mail, facsimile, or posting on an Internet website for which the identity of the Owner submitting the ballot can be confirmed and for which the property owner may receive a receipt of the electronic transmission and receipt of the Owner's ballot. If an electronic ballot is posted on the Association's Internet website, a notice of the posting shall be sent to each Owner that contains instructions on obtaining access to the posting on the website.

5.13.1 Co-Owned Lots. If a Lot is owned by more than one Member and only one Member is present at a meeting of the Association, that person may cast the vote allocated to that Lot. If more than one of the multiple Owners is present, the vote allocated to that Lot may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple owners casts the vote allocated to the Lot and none of the other Owners makes prompt protest to the person presiding over the meeting.

5.13.2 Corporation-Owner Lots. If a Lot is owned by a corporation, the vote appurtenant to that Lot may be cast by an officer of the corporation in the absence of express notice of the designation of a specific person by the Board of Directors or bylaws of the owning corporation. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

5.14 TABULATION AND ACCESS TO BALLOTS. A person who is a candidate in the Association's Board election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573 of the Texas Government Code, may not tabulate or otherwise be giving access to the ballots cast in that election or vote except as provided by this section. A person other than a person described above may tabulate votes in an Association election or vote, but may not disclose to any other person how an individual voted. Notwithstanding any other provision of this chapter or any other law, a person other than a person who tabulates votes may be given access to the ballots cast in the election or vote only as part of a recount process authorized by law.

5.15 RECOUNT OF VOTES. Any Owner may, not later than the fifteenth (15<sup>th</sup>) day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation services to the Association's mailing address or in person as reflected on the Latest Management Certificate, or to the address to which absentee and proxy ballots are mailed. The Association shall, at the expense of the Owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this section. The Association shall enter into a contract for the services of a person who is not a Member of the Association or related to a Member of the Association Board within the third degree by consanguinity or affinity, as determined under

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Chapter 573 of the Texas Government Code, who is a current or former county judge, county elections administrator, justice of the peace, county voter registrar, or a person agreed on by the Association and the persons requesting the recount. Any recount under this section must be performed on or before the thirtieth (30<sup>th</sup>) day after the date of receipt of a request. If the recount changes the results of the election, the Association shall reimburse the requesting Owner for the cost of the recount. The Association shall provide the results of the recount to each Owner who requested the recount. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

5.16 CONDUCT OF MEETINGS. Unless the notice of meeting state otherwise, the order of business at annual meetings of the Association shall be as follows:

- a. Determine votes present by roll call or check-in procedure
- b. Announcement of a quorum
- c. Proof of notice of meeting
- d. Reading and approval of minutes of receding meeting
- e. Reports
- f. Election of Directors
- g. Unfinished or old business
- h. New business
- i. Adjournment

5.17 ADJOURNMENT OF MEETING. At any meeting of the Association, a majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time.

## ARTICLE 6

### COMMITTEES

6.1 NOMINATING COMMITTEE. After the expiration of the Declarant Control Period, nominations for the election of the Board of Directors may be made by a Nominating Committee. The Nominating Committee shall make as many nominations to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting.

6.2 OTHER COMMITTEES. The Board of Directors may appoint other committees as the Board deems appropriate to carry out its purposes.

## ARTICLE 7

### RULES AND REGULATIONS

7.1 RULES. The Board shall have the right to establish and amend, from time to time, reasonable Rules and Regulations for: (i) the administration of the Association and the governing documents; (ii) the maintenance, management, operation, use, conservation, and beautification of the Subdivision; and (iii) the health, comfort, and general welfare of the residents; provided,

however, that such Rules may not be in conflict with law or the governing documents. The Board shall, at all times, maintain the then current and complete Rules in a written form which can be copies and distributed to the Members, and shall be recorded in the Official Records of Washington County, Texas.

7.2 ADOPTION AND AMENDMENT. Any Rule may be adopted, amended, or terminated by the Board, provided that the Rule and the requisite Board approval are properly recorded as a resolution in the minutes of the meeting of the Board.

7.3 NOTICE AND COMMENT. The Board shall give written notice to an Owner of each Lot of any amendment, termination, or adoption of a Rule, or shall publish same in a newsletter or similar publication which is circulated to the Members, at least ten (10) days before the Rule's effective date. Any Member so notified shall have the right to comment orally or in writing to the Board on the proposed action.

7.4 DISTRIBUTION. Upon written request from any Member or resident, the Board shall provide a current and complete copy of the Rules.

## ARTICLE 8

### OBLIGATIONS OF THE OWNERS

8.1 PROOF OF OWNERSHIP. Any person, on becoming a Member of the Association, shall furnish to the Board evidence of ownership in the Lot, which copy shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor be entitled to vote at any annual or special meeting of the Association unless this requirement is first met.

8.2 OWNERS' ADDRESSES. The Owner or the several Co-Owners of a Lot shall register and maintain one mailing address to be used by the Association for mailing of statements, notices, and all other communications. The Owner shall keep the Association informed of the Member's current mailing address. If an Owner fails to maintain a current mailing address with the Association, the address of that Owner's Lot shall be deemed to be his mailing address. An Owner who mortgages his or her Lot shall furnish the Board with the name and mailing address of the mortgagee.

8.3 ASSESSMENTS. All Owners shall be obligated to pay Maintenance Charges and other assessments imposed by the Association to meet the Common Expenses as defined in the Declaration.

8.4 COMPLIANCE WITH DOCUMENTS. Each Owner shall comply with the provisions and terms of the governing documents, and any amendments thereto. Further, each Owner shall always endeavor to observe and promote the cooperative purposes for which the Association was established.

## ARTICLE 9

## ASSOCIATION RECORDS

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9.1 AVAILABILITY. The Association shall make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the Owner as the Owner's agent, attorney, or certified public accountant, in accordance with this section. An Owner is entitled to obtain from the Association copies of information contained in the books and records. Association attorneys' files and records, excluding invoices requested by an Owner are not records of the Association and are not subject to inspection by the Owner or production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy from the attorney's filed and records if the Association has not maintained a separate copy of the document. This Article does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication. An Owner or the Owner's authorized representative must submit a written request for access or information by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the Association or authorized representative as reflected on the most current Management Certificate. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and if an inspection is requested, the Association, on or before the tenth (10<sup>th</sup>) business day after the date the Association received the request, shall send written notice of dates during normal business hours that the Owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the Association, or if copies of identified books and records are requested, the Association shall, to the extent those books and records are in the possession, custody, or control of the Association, produce the requested books and records for the requesting party on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request. If the Association is unable to produce the books or records requested on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, the Association must provide to the requestor written notice that informs the requestor that the Association is unable to produce the information on or before the tenth (10<sup>th</sup>) business day after the date the Association received the request, and states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the fifteenth (15<sup>th</sup>) business day after the date notice under this Article is given. The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.

9.2 OPEN RECORDS POLICY. The Board has adopted a Records Production and Copying Policy that prescribe the costs the Association will charge for the compilation, production, and reproduction of information requested under this section, and is recorded in the Official Public Records of Washington County, pursuant to Section 209.005 of the Act. The prescribed charges may include all reasonable costs of materials and labor. The Association may not charge an Owner for the compilation, productions, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An Owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this section. The Association may require advance payment of the estimated costs of compilation,



production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the Owner on or before the thirtieth (30<sup>th</sup>) business day after the date the information is delivered. If the final invoice includes additional amounts due from the Owner, the additional amounts, if not reimbursed to the Association before the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the Owner, may be added to the Owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the Owner is entitled to a refund, and the refund shall be issued to the Owner not later than the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the Owner.

9.3 RECORDS RETENTION. In accordance with Section 209.005(m) of the Act has adopted, recorded and complied with a Document Retention Policy which shall be recorded in the Official Public Records of Washington County, Texas.

## ARTICLE 10

### NOTICES

10.1 CO-OWNERS. If a Lot is owned by more than one person, notice to one Co-Owner shall be deemed notice to all Co-Owners.

10.2 DELIVERY OF NOTICES. Any written notice required or permitted by these Bylaws may be given personally, by mail, or by facsimile transmission. If mailed, the notice is deemed delivered when deposited in the U.S. Mail addressed to the Member at the address shown on the Association's records. If transmitted by facsimile, the notice is deemed delivered on successful transmission of the facsimile.

10.3 WAIVER OF NOTICE. Whenever any notice is required to be given to an Owner, Member, or Director, a written waiver of the notice, signed by the person entitled to such notice, whether before or after the time stated in the notice, shall be equivalent to the giving of such notice. Attendance by a Member or Director at any meeting of the Association or Board, respectively, shall constitute a waiver of notice by such Member or Director of the time, place, and purpose of such meeting. If all Members or Directors are present at any meeting of the Association or Board, respectively, no notice shall be required and any business may be transacted at such meeting.

## ARTICLE 11

### AMENDMENTS TO BYLAWS

11.1 PROPOSALS. These Bylaws may be amended by a Majority of the Members. The Association shall provide each Member with a detailed description of any proposed amendment. Such description shall be included in the notice of any annual or special meeting of the Association if such proposed amendment is to be considered at said meeting.



11.2 CONSENTS. An amendment shall be adopted by the vote, in person or by proxy, or written consents of Members representing at Least a Majority of the votes cast or present at a meeting for which a quorum is obtained.

11.3 EFFECTIVE. To be effective, each amendment must be in writing and be signed by at least two Officers acknowledging the requisite approval of Members, and be delivered to each Member at least ten (10) days before the amendment's effective date.

ARTICLE 12

GENERAL PROVISIONS

12.1 CONFLICTING PROVISIONS. If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, such conflicting Bylaws provision shall be null and void, but all other provisions of these Bylaws shall remain in full force and effect. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

12.2 SEVERABILITY. Invalidation of any provision of these Bylaws, by judgment or court order, shall in no wise affect any other provision which shall remain in full force and effect. The effect of a general statement shall not be limited by the enumerations of specific matters similar to the general.

12.3 FISCAL YEAR. The fiscal year of the Association shall be the calendar year.

12.4 WAIVER. No restriction, condition, obligation, or covenant in the Declaration or these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

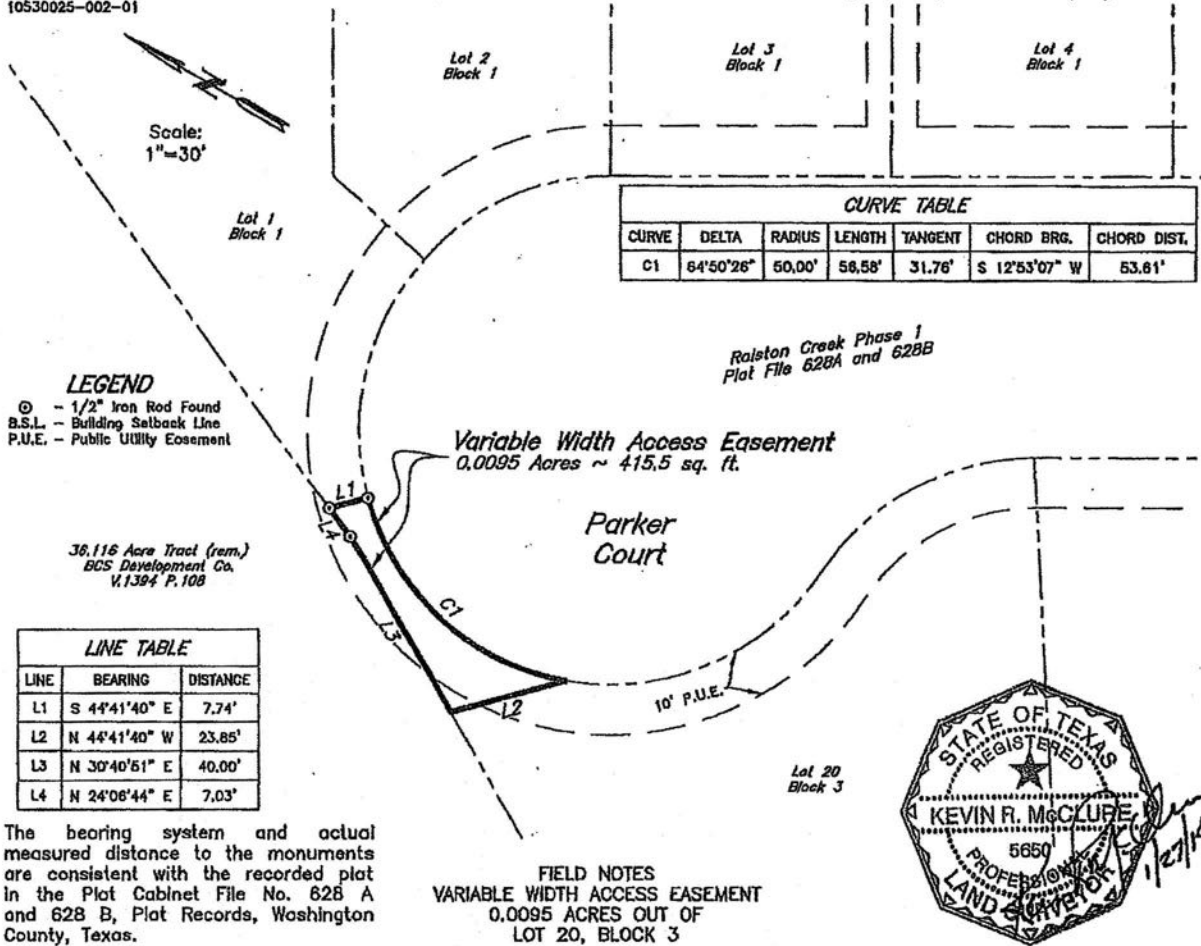
The undersigned Members of the Board of Directors have executed these Bylaws effective the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
RANDY FRENCH

\_\_\_\_\_  
DOUG FRENCH

\_\_\_\_\_  
JEFF FRENCH

McCLURE & BROWNE ENGINEERING/SURVEYING, INC • 1008 Woodcreek Drive, Suite 103 • College Station, Texas 77845 • (979) 693-3838  
10530025-002-01



The bearing system and actual measured distance to the monuments are consistent with the recorded plat in the Plat Cabinet File No. 628 A and 628 B, Plat Records, Washington County, Texas.

Being all that certain tract or parcel of land lying and being situated in the JAMES WALKER SURVEY, Abstract No. 106 in Brenham, Washington County, Texas and being part of Lot 20, Block 3 of the RALSTON CREEK ESTATES, PHASE 1 final plat recorded in the Plat Cabinet File No. 628 A and 628 B of the Plat Records of Washington County, Texas (P.R.W.C.) and being more particularly described by metes and bounds as follows:

**BEGINNING:** at a found 1/2-inch Iron rod marking the north corner of said Lot 20, Block 3, the southwest corner of Lot 1, Block 1 of said RALSTON CREEK ESTATES, PHASE 1 and being the most northerly corner of this tract;

**THENCE:** S 44° 41' 40" E along the common line of said Lot 20, Block 3 and said Lot 1, Block 1 for a distance of 7.74 feet to a found 1/2-inch iron rod marking the common most easterly corner of said Lots, said iron rod also being in the northwest right-of-way line of Parker Court;

**THENCE:** 56.58 feet along the said northwest line of Parker Court in a counter-clock direction along the arc of a curve having a central angle of 64° 50' 26", a radius of 50.00 feet, a tangent of 31.76 feet and a long chord bearing S 12° 53' 07" W at a distance of 53.61 feet for corner;

**THENCE:** N 44° 41' 40" W through the interior of said Lot 20, Block 3 for a distance of 23.85 feet for corner in the northwest line of said Lot 20, Block 3;

**THENCE:** N 30° 40' 51" E along the said northwest line of Lot 20 for a distance of 40.00 feet to a found 1/2-inch iron rod for angle point in said line;

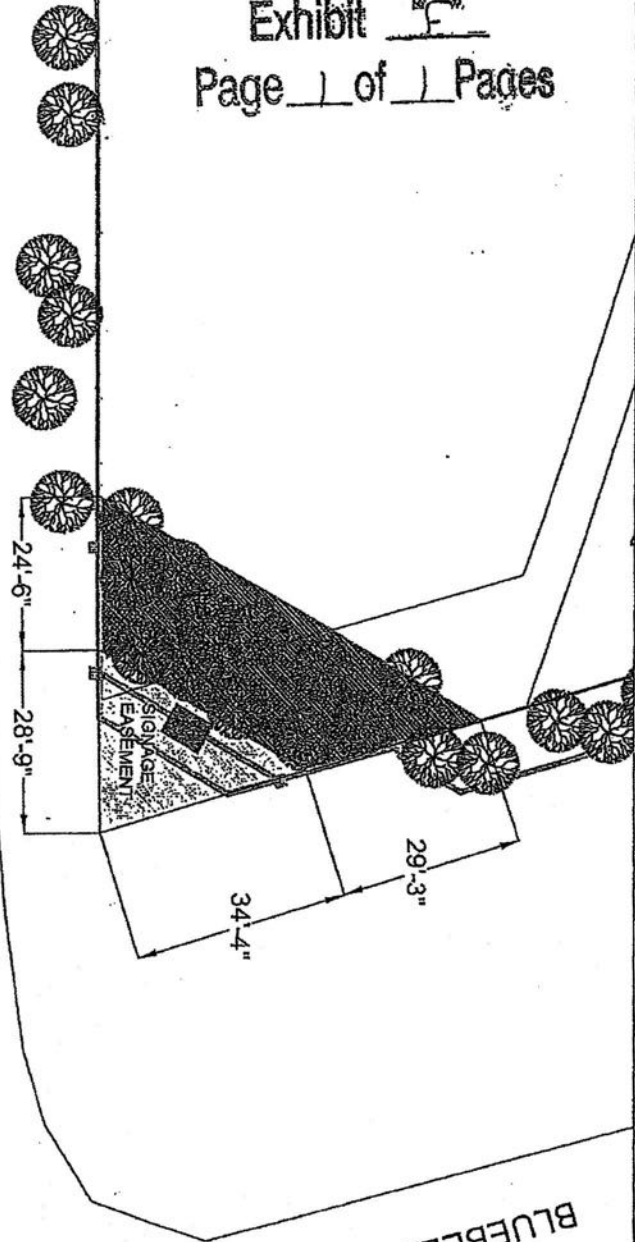
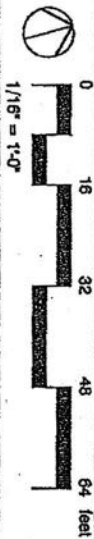
**THENCE:** N 24° 06' 44" E continuing along said northwest line for a distance of 7.03 feet to the POINT OF BEGINNING and containing 0.0095 acres (415.5 sq. ft.) of land, more or less, according to a survey made on the ground under the supervision of Kevin R. McClure, Registered Professional Land Surveyor, State of Texas, No. 5650, in January 2014.

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1 CORNER SIGNAGE EASEMENTS  
SCALE: 1/8" = 1'-0"  
VINCENT ALBINOSON

GUN AND ROD RD.

BLUEBELL DR.



1		the land design group inc		BLUEBELL DR. & GUN AND ROD BRENHAM, TX
		RALSTON CREEK		

STATE OF TEXAS  
COUNTY OF WASHINGTON

I hereby certify that this Instrument was FILED on the date and at the time affixed hereon by me and was duly RECORDED in the volume and page of the OFFICIAL RECORDS of Washington County, Texas, as stamped hereon by me on

FILED FOR RECORD  
WASHINGTON COUNTY, TEXAS

2014 MAR -4 AM 10: 27